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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,718	03/15/2004	John V. Marlow	T8-468057US	6127
7590 07/07/2005			EXAMINER	
Gowling Lafleur Henderson LLP			CHOI, STEPHEN	
Suite 4900			ART UNIT	
Commerce Court West			PAPER NUMBER	
Toronto, Ontario, M5L 1J3			3724	
CANADA			DATE MAILED: 07/07/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/799,718

Applicant(s)

MARLOW ET AL.

Examiner

Stephen Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Group I. Claims 2-4 and 6-8 are, drawn to a method of continuously punching an array of closely-spaced holes in a deformable strip in a rotary punch containing a step of continuously ejecting punched material, classified in class 83, subclass 27.
  - Group II. Claims 9-15 are, drawn to a method of continuously punching an array of closely-spaced holes in a deformable strip in a rotary punch containing a plurality of angular segments wherein each segment having at least one ejector pin for radial reciprocal travel, classified in class 83, subclass 23.
  - Group III. Claim 16 is, drawn to a deformable strip for manufacturing battery plates, classified in class 428, subclass 527.
  - Group IV. Claim 17 is, drawn to a lead acid battery, classified in class 29, subclass 623.1.
  - Group V. Claims 21-22 are, drawn to an apparatus having a plurality of angular segments wherein each angular segment having at least one ejector pin for radial reciprocal travel, classified in class 83, subclass 109.

Group VI. Claims 23-31 are, drawn to an apparatus having a plurality of discs having a plurality of recesses and/or punches, classified in class 83, subclass 343.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions groups I-II and groups V-VI are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another materially different apparatus such as an apparatus not having a female die, a male/female die, and a male die mounted on the same frame.

Inventions of groups I-II and groups III-IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the process as claimed can be used to make other and materially different product such as a deformable strip used in different devices.

Inventions of groups V-VI and groups III-IV are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the

product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case, the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product such as a strip used in different devices.

Claims 1 and 5 will be examined if any of groups I-II is elected.

Claims 18-20 will be examined if any of groups V-VI is elected

Claims 1 and 5 link inventions of groups I-II and claim 18 links inventions of groups V-VI. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim(s), claims 1 & 5 or 18. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Inventions of groups I-II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the method of group I does not

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require a plurality of angular segments wherein each segment having at least one ejector pin for radial reciprocal travel set forth in group II, and conversely, the method of group II does not require a step of continuously ejecting punched material set forth in group I. Furthermore, inventions of groups V-VI are related as subcombinations disclosed as usable together in a single combination. For example, the apparatus of group V does not require a plurality of discs having a plurality of recesses and/or punches set forth in group VI, and conversely, the apparatus of group VI does not require a plurality of angular segments wherein each angular segment having at least one ejector pin for radial reciprocal travel set forth in group V. See MPEP § 806.05(d). There is an excessive burden on the office to examine all of these inventions together, as shown by their search. See MPEP 808.02(C). For example, the device of group V will need to be searched in class 83, subclass 109, along with a unique text search. Group VI would not be searched as above, but would instead be searched in class 83, subclass 343 accompanied by a different text search.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Choi whose telephone number is 571-272-4504. The examiner can normally be reached on Monday-Friday 9:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SC  
July 5, 2005

  
**STEPHEN CHOI**  
**PRIMARY EXAMINER**